



BILLING CODE: 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-069, A-542-802, and A-549-835]

### Rubber Bands from the People's Republic of China, Sri Lanka, and Thailand: Initiation of Less-Than-Fair-Value Investigations

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**DATES:** Applicable February 20, 2018.

**FOR FURTHER INFORMATION CONTACT:** Paul Stolz at (202) 482-4474 and Stephanie Berger at (202) 482-2483 (the People's Republic of China (China)); Cindy Robinson at (202) 482-3797 (Sri Lanka); and Laurel LaCivita at (202) 482-4243 and Joseph Degreenia at (202) 482-6030 (Thailand); AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.

### SUPPLEMENTARY INFORMATION:

#### The Petitions

On January 30, 2018, the U.S. Department of Commerce (Commerce) received antidumping duty (AD) and countervailing duty (CVD) Petitions concerning imports of rubber bands from China, Sri Lanka, and Thailand filed in proper form on behalf of Alliance Rubber Co. (Alliance, the petitioner).<sup>1</sup> The petitioner is a domestic producer of rubber bands.<sup>2</sup>

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<sup>1</sup> See the petitioner's letter, "Petition for Imposition of Antidumping and Countervailing Duties on Rubber Bands from Thailand, China and Sri Lanka," dated January 30, 2018 (the Petitions). For the purposes of the instant notice, all mentions of 'the Petitions,' herein, refer specifically to the AD Petitions.

<sup>2</sup> See Volume I of the Petitions, at 5-6.

On February 2 and February 12, 2018, Commerce requested supplemental information pertaining to certain areas of the AD Petitions.<sup>3</sup> The petitioner filed responses to these requests on February 8 and February 13, 2018.<sup>4</sup> On February 16, 2018, based on a telephone conversation between Commerce and counsel to the petitioner, the petitioner agreed to certain clarifications to the scope.<sup>5</sup>

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of rubber bands from China, Sri Lanka, and Thailand are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, the domestic industry producing rubber bands in the United States. Consistent with section

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<sup>3</sup> See Commerce's letters, "Petition for the Imposition of Antidumping and Countervailing Duties on Imports of Rubber Bands from the People's Republic of China, Sri Lanka, and Thailand: Supplemental Questions" (General Issues Supplemental Questionnaire); "Petition for the Imposition of Antidumping Duties on Imports of Rubber Bands from the People's Republic of China: Supplemental Questions" (China AD Supplemental Questionnaire); "Petition for the Imposition of Antidumping Duties on Imports of Rubber Bands from Sri Lanka: Supplemental Questions" (Sri Lanka AD Supplemental Questionnaire); and "Petition for the Imposition of Antidumping Duties on Imports of Rubber Bands from Thailand: Supplemental Questions" (Thailand AD Supplemental Questionnaire). All four of these documents are dated February 2, 2018. See also Commerce's memoranda, "Petitions for the Imposition of Antidumping and Countervailing Duties on Rubber Bands from the People's Republic of China, Sri Lanka, and Thailand: Phone Call with Counsel to the Petitioner" (Second General Issues Supplemental Questionnaire); "Petition for the Imposition of Antidumping Duties on Rubber Bands from the People's Republic of China: Phone Call with Counsel to the Petitioner" (China Second AD Supplemental Questionnaire); "Petition for the Imposition of Antidumping Duties on Rubber Bands from the Sri Lanka: Phone Call with Counsel to the Petitioner" (Sri Lanka Second AD Supplemental Questionnaire); and "Petition for the Imposition of Antidumping Duties on Rubber Bands from Thailand: Phone Call with Counsel to the Petitioner" (Thailand Second AD Supplemental Questionnaire). All four of these documents are dated February 12, 2018.

<sup>4</sup> See the petitioner's separate letters regarding General Issues, China, Sri Lanka and Thailand, each entitled, "Petition for the Imposition of Antidumping and Countervailing Duties on Rubber Bands from Thailand, China and Sri Lanka - Responses to Supplemental Questionnaires" (respectively, General Issues Supplement, Sri Lanka AD Supplement, China AD Supplement, and Thailand AD Supplement). All four of these documents are dated February 8, 2018. See also the petitioner's separate letters regarding General Issues, China, Sri Lanka, and Thailand, each entitled, "Petition for the Imposition of Antidumping and Countervailing Duties on Rubber Bands from Thailand, China and Sri Lanka - Supplemental Responses to Supplemental Questionnaires: Responses of Petitioner Alliance Rubber Co. to Department of Commerce's February 12, 2018 General Issues Questionnaire" (respectively, Second General Issues Supplement, Second China AD Supplement, Second Sri Lanka AD Supplement, and Second Thailand AD Supplement). All four of these documents are dated February 13, 2018.

<sup>5</sup> See memorandum, "Phone Call with Counsel to the Petitioner Regarding Scope Clarification," dated February 16, 2018 (Scope Clarification Memorandum).

732(b)(1) of the Act, the Petitions are accompanied by information reasonably available to the petitioner supporting its allegations.

Commerce finds that the petitioner filed the Petitions on behalf of the domestic industry because the petitioner is an interested party as defined in section 771(9)(C) of the Act.

Commerce also finds that the petitioner demonstrated sufficient industry support with respect to the initiation of the AD investigations that the petitioner is requesting.<sup>6</sup>

#### Periods of Investigation

Because the Petitions were filed on January 30, 2018, pursuant to 19 CFR 351.204(b)(1), the period of investigation (POI) for the Sri Lanka and Thailand investigations is January 1, 2017, through December 31, 2017. Because China is a non-market economy (NME) country, pursuant to 19 CFR 351.204(b)(1), the POI for the China investigation is July 1, 2017, through December 31, 2017.

#### Scope of the Investigations

The products covered by these investigations are rubber bands from China, Sri Lanka, and Thailand. For a full description of the scope of these investigations, *see* the Appendix to this notice.

#### Comments on Scope of the Investigations

During our review of the Petitions, Commerce issued questions to, and received responses from, the petitioner pertaining to the proposed scope to ensure that the scope language in the Petitions is an accurate reflection of the products for which the domestic industry is

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<sup>6</sup> See the “Determination of Industry Support for the Petitions” section, *infra*.

seeking relief.<sup>7</sup> As a result of these exchanges, the scope of the Petitions was modified to clarify the description of merchandise covered by the Petitions. The description of the merchandise covered by this initiation, as described in the Appendix to this notice, reflects these clarifications.

As discussed in the preamble to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (scope).<sup>8</sup> Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determinations. If scope comments include factual information,<sup>9</sup> all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit such comments by 5:00 p.m. Eastern Time (ET) on March 12, 2018, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on March 22, 2018, which is 10 calendar days from the initial comments deadline.<sup>10</sup>

Commerce requests that any factual information the parties consider relevant to the scope of the investigations be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact Commerce and request permission to submit the additional information. All such comments must be filed on the records of each of the concurrent AD and CVD investigations, in accordance with the filing requirements, discussed immediately below.

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<sup>7</sup> See General Issues Supplemental Questionnaire, at 3-4 and Second General Issues Supplemental Questionnaire; see also General Issues Supplement at 4-6, and Second General Issues Supplement at 1; and Scope Clarification Memorandum.

<sup>8</sup> See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

<sup>9</sup> See 19 CFR 351.102(b)(21) (defining "factual information").

<sup>10</sup> See 19 CFR 351.303(b).

## Filing Requirements

All submissions to Commerce must be filed electronically using Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS).<sup>11</sup> An electronically filed document must be received successfully in its entirety by the time and date it is due. Documents exempted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

## Comments on Product Characteristics for AD Questionnaires

Commerce requests comments from interested parties regarding the appropriate physical characteristics of rubber bands to be reported in response to Commerce's AD questionnaires. This information will be used to identify the key physical characteristics of the merchandise under consideration in order to report the relevant costs of production accurately as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) general product characteristics, and (2) product-comparison criteria. We note that it is not always appropriate to use all product characteristics as product-comparison criteria. We base product-comparison

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<sup>11</sup> See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); see also *Enforcement and Compliance; Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at <https://access.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe rubber bands, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, Commerce attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all product characteristics comments must be filed by 5:00 p.m. ET on March 12, 2018. Any rebuttal comments must be filed by 5:00 p.m. ET on March 19, 2018. All comments and submissions to Commerce must be filed electronically using ACCESS, as explained above, on the records of the China, Sri Lanka, and Thailand less-than-fair-value investigations.

#### Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as

required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,<sup>12</sup> they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.<sup>13</sup>

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the Petitions).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the Petitions. Based on our analysis of the information submitted on the record, we have determined that rubber bands, as defined in the

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<sup>12</sup> See section 771(10) of the Act.

<sup>13</sup> See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989)).

scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.<sup>14</sup>

In determining whether the petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the “Scope of the Investigations,” in the Appendix to this notice. To establish industry support, the petitioner provided its own net sales values of the domestic like product in 2017, and compared this to the estimated total sales values of the domestic like product for the entire domestic industry.<sup>15</sup> Because total industry production data for the domestic like product for 2017 are not reasonably available to the petitioner, and the petitioner has established that sales values and shipments are a reasonable proxy for production data,<sup>16</sup> we have relied on the data the petitioner provided for purposes of measuring industry support.<sup>17</sup>

Our review of the data provided in the Petitions, the General Issues Supplement, the Second General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petitions.<sup>18</sup> First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not

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<sup>14</sup> For a discussion of the domestic like product analysis, *see* Antidumping Duty Investigation Initiation Checklist: Rubber Bands from China (China AD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Rubber Bands from the People’s Republic of China, Sri Lanka, and Thailand (Attachment II); Antidumping Duty Investigation Initiation Checklist: Rubber Bands from Sri Lanka (Sri Lanka AD Initiation Checklist), at Attachment II; and Antidumping Duty Investigation Initiation Checklist: Rubber Bands from Thailand (Thailand AD Initiation Checklist), at Attachment II. These checklists are dated concurrently with, and hereby adopted by, this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

<sup>15</sup> *See* General Issues Supplement, at 8 and GEN-10S; *see also* Second General Issues Supplement, at 2-3.

<sup>16</sup> *See* Second General Issues Supplement, at 2-3.

<sup>17</sup> *Id.* For further discussion, *see* China AD Initiation Checklist, at Attachment II; Sri Lanka AD Initiation Checklist, at Attachment II; and Thailand AD Initiation Checklist, at Attachment II.

<sup>18</sup> *See* China AD Initiation Checklist, at Attachment II; Sri Lanka AD Initiation Checklist, at Attachment II; and Thailand AD Initiation Checklist, at Attachment II.



required to take further action in order to evaluate industry support (*e.g.*, polling).<sup>19</sup> Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product.<sup>20</sup> Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.<sup>21</sup> Accordingly, Commerce determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

Commerce finds that the petitioner filed the Petitions on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act, and it has demonstrated sufficient industry support with respect to the AD investigations that it is requesting that Commerce initiate.<sup>22</sup>

#### Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value (NV). In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.<sup>23</sup>

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<sup>19</sup> See section 732(c)(4)(D) of the Act; *see also* China AD Initiation Checklist, at Attachment II; Sri Lanka AD Initiation Checklist, at Attachment II; and Thailand AD Initiation Checklist, at Attachment II.

<sup>20</sup> See China AD Initiation Checklist, at Attachment II; Sri Lanka AD Initiation Checklist, at Attachment II; and Thailand AD Initiation Checklist, at Attachment II.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> See General Issues Supplement, at 9 and Exhibit B.

The petitioner contends that the industry's injured condition is illustrated by a significant and increasing volume of subject imports, reduced market share, underselling and price depression or suppression, lost sales and revenues, and a negative impact on the domestic industry's financial performance.<sup>24</sup> We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.<sup>25</sup>

#### Allegations of Sales at Less Than Fair Value

The following is a description of the allegations of sales at less than fair value upon which Commerce based its decision to initiate AD investigations of imports of rubber bands from China, Sri Lanka, and Thailand. The sources of data for the deductions and adjustments relating to U.S. price and NV are discussed in greater detail in the country-specific initiation checklists.

#### Export Price

For China, Sri Lanka, and Thailand, the petitioners based export price (EP) on pricing information or price quotes for rubber bands produced in, and exported from, those countries and sold or offered for sale in the United States.<sup>26</sup>

Where appropriate, the petitioner made deductions from U.S. price consistent with the terms of sale, as applicable.<sup>27</sup>

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<sup>24</sup> See Volume I of the Petitions, at 16-19, 25-47 and Exhibits GEN-3 through GEN-8, GEN-10 and GEN-12; *see also* General Issues Supplement, at 8-16 and Exhibits A, B, and GEN-10S; and Second General Issues Supplement, at 3 and Exhibit A.

<sup>25</sup> See China AD Initiation Checklist, at Attachment III, "Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Rubber Bands from the People's Republic of China, Sri Lanka, and Thailand" (Attachment III); *see also* Sri Lanka AD Initiation Checklist, at Attachment III; *see also* Thailand AD Initiation Checklist, at Attachment III.

<sup>26</sup> See China AD Initiation Checklist, Sri Lanka AD Initiation Checklist, and Thailand AD Initiation Checklist.

## Normal Value

For Sri Lanka and Thailand, the petitioner was unable to obtain home market or third-country prices for rubber bands; therefore, the petitioner calculated normal value based on constructed value (CV) pursuant to section 773(a)(4) of the Act. *See* the section “Normal Value Based on Constructed Value” below.<sup>28</sup>

With respect to China, Commerce considers China to be an NME country.<sup>29</sup> In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by Commerce. Therefore, we continue to treat China as an NME country for purposes of the initiation of this investigation. Accordingly, NV in China is appropriately based on factors of production (FOPs) valued in a surrogate market economy country, in accordance with section 773(c) of the Act.<sup>30</sup> In the course of this investigation, all parties, and the public, will have the opportunity to provide relevant information related to the granting of separate rates to individual exporters.

The petitioner claims that Thailand is an appropriate surrogate country for China because:

- 1) Commerce has evaluated the per capita gross domestic product (GDP) of Thailand in numerous cases and determined that Thailand is at the level of economic development comparable to China based on per-capita Gross National Income; 2) Thailand is a significant producer of comparable merchandise as well as a significant exporter of subject merchandise;

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<sup>27</sup> *Id.*

<sup>28</sup> In accordance with section 505(a) of the Trade Preferences Extension Act of 2015, amending section 773(b)(2) of the Act, for these investigations, Commerce will request information necessary to calculate the CV and cost of production (COP) to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that represent less than the COP of the product. Commerce no longer requires a COP allegation to conduct this analysis.

<sup>29</sup> *See Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination*, 82 FR 50858, 50861 (November 2, 2017), and accompanying decision memorandum, *China's Status as a Non-Market Economy*.

<sup>30</sup> *See* China AD Initiation Checklist.

and 3) the data for valuing FOPs, factory overhead, selling, general and administrative (SG&A) expenses and profit are publicly available, current, and reliable.<sup>31</sup> Based on the information provided by the petitioner, we believe it is appropriate to use Thailand as a surrogate country for initiation purposes.

Interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value FOPs within 30 days before the scheduled date of the preliminary determination.

#### Factors of Production

Because information regarding the volume of inputs consumed by Chinese producers/exporters was not reasonably available, the petitioner relied on its actual consumption of direct materials, direct labor, energy, scrap offset, and packing for comparable rubber bands, adjusted for known differences in usage between the United States and China.<sup>32</sup> The petitioner valued the estimated FOPs using surrogate values from Thailand,<sup>33</sup> and used the average POI exchange rate to convert the data to U.S. dollars.<sup>34</sup>

#### Normal Value Based on Constructed Value

As noted above, for Sri Lanka and Thailand, the petitioner was unable to obtain home market or third-country prices for rubber bands; therefore, the petitioner based NV on CV pursuant to section 773(a)(4) of the Act. Pursuant to section 773(b)(3) of the Act, CV consists of

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<sup>31</sup> See Volume III of Petitions, at 3.

<sup>32</sup> *Id.* at 1 and 4 and Exhibit AD-CH-2.

<sup>33</sup> *Id.* at Exhibit AD-CH-3; see also China AD Supplement, at Exhibit AD-CH-S3; and Second China AD Supplement, at Exhibit AD-CH-SS3.

<sup>34</sup> *Id.*

the cost of manufacturing (COM); selling, general and administrative (SG&A) expenses; financial expenses; profit; and packing expenses.

For Sri Lanka, the petitioner calculated the COM based on its own input factors of production and usage rates for raw materials, energy, packing and scrap offset. The input factors of production were valued using publicly available data on costs specific to Sri Lanka, where available, and the petitioner's cost experience. For Sri Lanka, labor and energy costs were valued using publicly available sources from Sri Lanka and the petitioner's cost experience.<sup>35</sup> The petitioner calculated factory overhead, SG&A, financial expenses and profit based on the experience of a Sri Lankan producer of comparable merchandise.<sup>36</sup>

For Thailand, the petitioner calculated the COM based on its own input factors of production and usage rates for raw materials, labor, energy, packing, and a scrap offset.<sup>37</sup> The input factors of production were valued using publicly available data on costs specific to Thailand, during the proposed POI.<sup>38</sup> Specifically, the prices for raw material and packing inputs were based on publicly available import data for Thailand.<sup>39</sup> Labor and energy costs were valued using publicly available sources for Thailand.<sup>40</sup> The petitioner calculated factory overhead, SG&A, and profit for Thailand based the experience of a Thai producer of rubber bands.<sup>41</sup>

#### Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of rubber bands from China, Sri Lanka, and Thailand are being, or are likely to be, sold in the United States at less than fair value. Based on comparisons of EP to NV in accordance with

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<sup>35</sup> See Sri Lanka AD Initiation Checklist

<sup>36</sup> *Id.*

<sup>37</sup> See Thailand AD Initiation Checklist.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

sections 772 and 773 of the Act, the estimated dumping margins for rubber bands for each of the countries covered by this initiation are as follows: (1) China – 27.27 percent;<sup>42</sup> (2) Sri Lanka - 56.54 to 133.13 percent;<sup>43</sup> and (3) Thailand – 28.92 to 78.36 percent.<sup>44</sup>

#### Initiation of Less-than-Fair-Value Investigations

Based upon the examination of the Petitions, we find that the Petitions meet the requirements of section 732 of the Act. Therefore, we are initiating AD investigations to determine whether imports of rubber bands from China, Sri Lanka, and Thailand are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Under the Trade Preferences Extension Act of 2015, numerous amendments to the AD and CVD laws were made.<sup>45</sup> The 2015 law does not specify dates of application for those amendments. On August 6, 2015, Commerce published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained in section 771(7) of the Act, which relate to determinations of material injury by the ITC.<sup>46</sup> The amendments to sections 771(15), 773, 776, and 782 of the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to these AD investigations.<sup>47</sup>

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<sup>42</sup> See China AD Initiation Checklist.

<sup>43</sup> See Sri Lanka AD Initiation Checklist.

<sup>44</sup> See Thailand AD Initiation Checklist.

<sup>45</sup> See Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (2015).

<sup>46</sup> See *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015).

<sup>47</sup> *Id.* at 46794-95. The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>.

## Respondent Selection

In the Petitions, the petitioner named 12, four, and 22 producers/exporters, respectively, as accounting for the majority of exports of rubber bands products to the United States from China, Sri Lanka, and Thailand.<sup>48</sup> With regard to China, in accordance with our standard practice for respondent selection in cases involving NME countries, we intend to issue quantity and value (Q&V) questionnaires to each potential respondent and, if necessary, base respondent selection on the responses received. In addition, Commerce will post the Q&V questionnaire along with filing instructions on the Enforcement and Compliance website at <http://www.trade.gov/enforcement/news.asp>.

Exporters/producers of rubber bands from China that do not receive Q&V questionnaires by mail may still submit a response to the Q&V questionnaire and can obtain a copy from the Enforcement and Compliance website. The Q&V response must be submitted by all exporters/producers from China no later than 5:00 p.m. E.T. on March 6, 2018, which is two weeks from the signature date of this notice. All Q&V responses must be filed electronically via ACCESS.

With regard to Sri Lanka and Thailand, following standard practice in AD investigations involving market economy countries, in the event Commerce determines that the number of companies is large and it cannot individually examine each company based upon Commerce's resources, where appropriate, Commerce intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports under the appropriate Harmonized Tariff Schedule of the United States numbers listed with the scope in the Appendix, below. We also intend to release the CBP data under Administrative Protective Order (APO) to all parties with

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<sup>48</sup> See Volume I of the Petitions, at Exhibit GEN-2. See also General Issues Supplement at 2-3.

access to information protected by APO on the record within five business days of publication of this *Federal Register* notice. Comments regarding the CBP data and respondent selection should be submitted seven calendar days after the placement of the CBP data on the record of these investigations. Parties wishing to submit rebuttal comments should submit those comments five calendar days after the deadline for the initial comments. Comments must be filed electronically using ACCESS. An electronically-filed document must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5:00 p.m. ET by the dates noted above. We intend to make our decision regarding respondent selection within 20 days of publication of this notice.

#### Separate Rates

In order to obtain separate-rate status in an NME investigation, exporters and producers must submit a separate-rate application.<sup>49</sup> The specific requirements for submitting a separate-rate application in the China investigation are outlined in detail in the application itself, which is available on Commerce's web site at <http://enforcement.trade.gov/nme/nme-sep-rate.html>. The separate-rate application will be due 30 days after publication of this initiation notice.<sup>50</sup>

Exporters and producers who submit a separate-rate application and have been selected as mandatory respondents will be eligible for consideration for separate-rate status only if they respond to all parts of Commerce's AD questionnaire as mandatory respondents. Commerce requires that companies from China submit a response to both the Q&V questionnaire and the separate-rate application by the respective deadlines in order to receive consideration for

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<sup>49</sup> See Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation involving Non-Market Economy Countries (April 5, 2005), available at <http://enforcement.trade.gov/policy/bull05-1.pdf> (Policy Bulletin 05.1).

<sup>50</sup> Although in some past investigations this deadline was 60 days, consistent with 19 CFR 351.301(a), which states that "the Secretary may request any person to submit factual information at any time during a proceeding," this deadline is now 30 days.



separate-rate status. Companies not filing a timely Q&V response will not receive separate-rate consideration.

#### Use of Combination Rates

Commerce will calculate combination rates for certain respondents that are eligible for a separate rate in an NME investigation. The Separate Rates and Combination Rates Bulletin states:

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME Investigation will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of “combination rates” because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.<sup>51</sup>

#### Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A)(i) of the Act and 19 CFR 351.202(f), copies of the public version of the Petitions have been provided to the governments of China, Sri Lanka, and Thailand *via* ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petitions to each exporter named in the Petitions, as provided under 19 CFR 351.203(c)(2).

#### ITC Notification

We will notify the ITC of our initiation, as required by section 732(d) of the Act.

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<sup>51</sup> See Policy Bulletin 05.1 at 6 (emphasis added).

### Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petitions were filed, whether there is a reasonable indication that imports of rubber bands from China, Sri Lanka, and/or Thailand are materially injuring or threatening material injury to a U.S. industry.<sup>52</sup> A negative ITC determination for any country will result in the investigation being terminated with respect to that country.<sup>53</sup> Otherwise, the investigations will proceed according to statutory and regulatory time limits.

### Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Any party, when submitting factual information, must specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted<sup>54</sup> and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.<sup>55</sup> Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in these investigations.

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<sup>52</sup> See section 733(a) of the Act.

<sup>53</sup> *Id.*

<sup>54</sup> See 19 CFR 351.301(b).

<sup>55</sup> See 19 CFR 351.301(b)(2).

### Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should review *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in these investigations.

### Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.<sup>56</sup> Parties are hereby reminded that revised certification requirements are in effect for company/government officials, as well as their representatives. Investigations initiated on the basis of petitions filed on or after August 16, 2013, and other segments of any AD or CVD proceedings initiated on or after August 16, 2013,

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<sup>56</sup> See section 782(b) of the Act.

should use the formats for the revised certifications provided at the end of the *Final Rule*.<sup>57</sup>

Commerce intends to reject factual submissions if the submitting party does not comply with applicable revised certification requirements.

#### Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, Commerce published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634 (January 22, 2008). Parties wishing to participate in these investigations should ensure that they meet the requirements of these procedures (*e.g.*, the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: February 20, 2018.

**Christian Marsh,**

*Deputy Assistant Secretary*

*for Enforcement and Compliance.*

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<sup>57</sup> See *Certification of Factual Information to Import Administration during Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*); see also frequently asked questions regarding the *Final Rule*, available at [http://enforcement.trade.gov/tlei/notices/factual\\_info\\_final\\_rule\\_FAQ\\_07172013.pdf](http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf).

## **Appendix**

### **Scope of the Investigations**

The products subject to these investigations are bands made of vulcanized rubber, with a flat length, as actually measured end-to-end by the band lying flat, no less than ½ inch and no greater than 10 inches; with a width, which measures the dimension perpendicular to the length, actually of at least 3/64 inch and no greater than 2 inches; and a wall thickness actually from 0.020 inch to 0.125 inch. Vulcanized rubber has been chemically processed into a more durable material by the addition of sulfur or other equivalent curatives or accelerators. Subject products are included regardless of color or inclusion of printed material on the rubber band's surface, including but not limited to, rubber bands with printing on them, such as a product name, advertising, or slogan, and printed material (*e.g.*, a tag) fastened to the rubber band by an adhesive or another temporary type of connection. The scope includes vulcanized rubber bands which are contained or otherwise exist in various forms and packages, such as, without limitation, vulcanized rubber bands included within a desk accessory set or other type of set or package, and vulcanized rubber band balls. The scope excludes products that consist of an elastomer loop and durable tag all-in-one, and bands that are being used at the time of import to fasten an imported product.

Merchandise covered by these investigations is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 4016.99.3510. Merchandise covered by the scope may also enter under HTSUS subheading 4016.99.6050. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigations is dispositive.

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